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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,942	12/27/2000	Charles A. Eldering	T721-15	6478

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TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME
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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,942

Applicant(s)

ELDERING ET AL.

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/29/05, 10/3/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-11 and 15-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1-11 and 15-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,002,393 to Hite et al (hereinafter "Hite") in view of Guyot (of record).

Regarding **claims 1, 15, and 23**, Hite discloses, in a television network (fig. 1), subscriber equipment (at display site **400**, detailed in fig. 4) and corresponding method for displaying targeted advertisements to a subscriber (col. 6, ll. 39-47), the subscriber equipment comprising:

a communications interface (commercial processor **578** of set-top box **500**, fig.5) for receiving at least one queue (targeted commercial display instructions/commercial targeting information, col. 11, ll. 45-51) identifying a sequence of targeted advertisements (instructions indicate which commercials to play, col. 4, ll. 9-14, and specify playback sequence of targeted commercials, col. 3, ll. 8-17), wherein the at least one queue is selectively distributed to the subscriber and the targeted advertisements have been previously matched to the subscriber (col. 7, ll. 57-65);

memory (**612**, fig. 6) for storing the at least one queue (col. 11, ll. 22-27 and 53-54; see also col. 4, ll. 9-14);

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a processor (600, fig. 6), responsive to the at least one queue, configured to insert the targeted advertisements into avails in program streams (designated commercial times/spots, col. 12, ll. 15-27) for display to the subscriber in accordance with the sequence (col. 11, ll. 58-60, col. 4, ll. 53-56, and col. 3, ll. 8-17), wherein the sequence is independent of the content of the corresponding program stream (col. 3, ll. 8-17 and col. 5, ll. 40-51).

Hite fails to disclose a trigger circuit as claimed, but does disclose a frequency feature for tracking the number of successful exposures of targeted ads for contractual purposes (col. 2, l. 66 - col. 3, l. 8).

In an analogous art, Guyot discloses a targeted ad system in which a queue of targeted ads is depleted (*i.e.*, reaches a low-level) responsive to, *inter alia*, a determination that individual ads specified therein have been successfully presented a given number of times, as established by their respective providers (col. 6, l. 67 - col. 7, l. 6 and col. 3, l. 66 - col. 4, l. 14). Furthermore, Guyot discloses a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit (col. 6, ll. 64-67 and col. 7, ll. 6-11), thus keeping the ads queued for display to the subscriber up to date (col. 2, ll. 29-36).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the subscriber equipment of Hite to include a trigger circuit for determining if the at least one queue has reached a low-level, wherein said communications interface refreshes the at least one queue in response to a low-level determination by said trigger circuit, as taught by Guyot, for the benefit of increasing advertising opportunities by continuously refreshing ads queued for display in accordance with fulfillment of prior advertisement contracts.

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As to **claims 2 and 16**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, further comprising a counter for tracking number of times each targeted advertisement is displayed to the subscriber (Hite, col. 2, l. 66 - col. 3, l. 8, and col. 3, ll. 29-40).

As to **claim 3**, Hite and Guyot together disclose the system of claim 1, wherein said communications interface also receives the targeted advertisements and said memory also stores said targeted advertisements (Hite, col. 12, ll. 3-27).

As to **claims 4 and 17**, Hite and Guyot together disclose the system and corresponding method of claims 3 and 15, wherein each targeted advertisement stored in memory is identified by an advertisement identifier that uniquely identifies the targeted advertisement and the at least one queue references the advertisement identifier (where data related to the usage of particular advertisement at the receiver site is maintained [see rejection of claim 3], there inherently exists a unique advertisement identifier; furthermore, presentation of particular commercials in a sequence according to the commercial display instructions [*i.e.*, queue; see rejection of claims 1 and 15] inherently requires said instructions reference said identifier).

As to **claims 5 and 18**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one queue includes advertiser data identifying the advertiser sponsoring the advertisement (where the usage a of a particular advertisement is subsequently referenced to the sponsoring advertiser [see rejection of claim 3], said queue inherently includes data which can identify said sponsoring advertiser).

As to **claims 6-8, and 19-21**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein for each targeted advertisement, the at least one queue includes: a time frame defining a time during which the targeted advertisement should be displayed, including an hour frame, as claimed; and an expiration date of the targeted advertisement, as claimed (Guyot, col. 4, ll. 34-57).

As to **claims 9 and 22**, Hite and Guyot together disclose the system and corresponding method of claims 1 and 15, wherein said trigger circuit determines that the at least one queue has reached a low-level if the at least one queue has less than a predetermined number of targeted advertisements remaining (Guyot, col. 6, l. 64 - col. 7, l. 11).

As to **claim 10**, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses said communication interface is connectable to an advertising management system (200, fig. 1) over a network connection wherein the targeted advertisements are identified by the advertisement management system based on a profile of the subscriber supplied to the advertisement management system (col.7, ll. 7-36).

As to **claim 11**, Hite and Guyot together disclose the system of claim 1. In addition, Hite discloses the at least one queue includes a state indicator (low-level trigger) for activating said trigger circuit (Guyot, col. 6, l. 64 - col. 7, l. 11).

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Conclusion

4. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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P.O. Box 1450
Alexandria, VA 22313-1450

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Typed or printed name of person signing this certificate:

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____
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Signature: _____

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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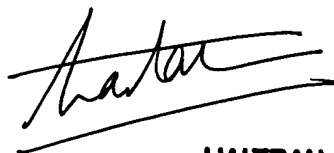
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

CML

A handwritten signature in black ink, appearing to read 'HAITRAN', with a horizontal line drawn underneath it.

**HAITRAN
PRIMARY EXAMINER**